## PATENT COOPERATION TREATY

# **PCT**

# TRANSLATION INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 31586P WO/HG			FOR FURTHER ACTION		See Form PCT/IPEA/416					
International application No.			International filing da	te (dav/month/vear)	Priority date (day/month/year)					
PCT/EP2004/010407			16.09.200		18.09.2003					
International Patent Classification (IPC) or national classification and IPC  A23L2/54, B67C3/06, B01F3/04										
AZSIZ/SI, BUTCS/UU, BUIES/UI										
Applicant										
ADELHOLZENER ALPENQUELLEN GMBH										
	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.									
2. This	REPORT consists of	of a total of	5	sheets, including	ng this cover sheet.					
3. This	report is also accon	npanied by Al	NNEXES, comprising:							
a.	(sent to the a	pplicant and	to the International Bu	reau) a total of	sheets, as follows:					
					amended and are the basis for this report and/or					
	Instruct		ctifications authorized	by this Authority (see Ru	ale 70.16 and Section 607 of the Administrative					
	sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental									
	Box.									
b.	(sent to the I	nternational I	Bureau only) a total of	(indicate type and numbe	er of electronic carrier(s))					
	1 . 1 . 1	•	111.6		_ , containing a sequence listing and/or tables					
			readable form only, a rative Instructions).	s indicated in the Supple	emental Box Relating to Sequence Listing (see					
4. This	report contains indi	cations relatir	ng to the following iten	ns:						
	Box No. I	Basis of the	report							
	Box No. II	Priority								
	Box No. III	Non-establis	shment of opinion with	regard to novelty, invent	tive step and industrial applicability					
	Box No. IV	Lack of unit	y of invention							
	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement									
	Box No. VI Certain documents cited									
	Box No. VII Certain defects in the international a									
	Box No. VIII Certain observations on the international application									
Date of subm	ssion of the demand		T	Date of completion of th	nis report					
52 535 11					<u></u>					
Name and ma	iling address of the I	IPEA/EP		Authorized officer						
Faccimile No.				Talanhana Na						

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/010407

Box	No. I	I Basis of the report		
1.		h regard to the language, this report is based on the internation cated under this item.	onal application in the language in	which it was filed, unless otherwise
		This report is based on translations from the original language which is the language of a translation furnished for the purp		· · · · · · · · · · · · · · · · · · ·
		international search (Rule 12.3 and 23.1(b))	0	
		publication of the international application (Rule 12.4 international preliminary examination (Rule 55.2 and		
2.	With	h regard to the <b>elements</b> of the international application, this		sheets which have been furnished to the
2.	rece	eiving Office in response to an invitation under Article $14$ at report):		
		the international application as originally filed/furnished		
	$\overline{\boxtimes}$	the description:		
		pages _ 1-10		as originally filed/furnished
		pages*		
		pages*	received by this Authority on	_
	$\boxtimes$	the claims:		_
	_	nos.		as originally filed/furnished
			as amended (togethe	r with any statement) under Article 19
		nos.* 1-15		15.07.2005 with letter
		nos.*		
	$\boxtimes$	the drawings:		
				as originally filed/furnished
		sheets*		
			•	
	П	a sequence listing and/or any related table(s) – see Supplem		
2	$\overline{\Box}$	The amendments have resulted in the cancellation of:	iomar Box Remains to bequeitee B	104115.
3.				
		the description, pages		
		the claims, nos.  the drawings, sheets/figs		
4.		This report has been established as if (some of) the amend	Iments annexed to this report and	
•	Ш	they have been considered to go beyond the disclosure as fi		
		the description, pages		
		the claims, nos.		
		the drawings, sheets/figs		
		the sequence listing (specify):		
		any table(s) related to sequence listing (specify):		
*	If ite	em 4 applies, some or all of those sheets may be marked "sup	erseded."	

#### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box		Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement				
1.	Statement					
	Novelty (N)		1-15	YES		
		Claims		NO		
Inventive step (IS)		Claims	1-15	YES		
		Claims		NO		
	Industrial applicability (IA)	Claims	1-15	YES		
		Claims		NO		

2. Citations and explanations (Rule 70.7)

Reference is made to the following documents:

D1: US 2002/0139434

D2: EP 0 847 959.

- 1. Novelty
- 1.1 Document D1 discloses (see paragraphs [0038] to [0068] and figure 5):

a device for filling a container with liquids, said device consisting of a filling organ (120) with a valve for liquids (926), a valve for gas (937), a chamber (930) filled with nitrogen and, between the container (GB) and the chamber (930), a connector (121, 131, 141) for rinsing or prestressing the container.

The subject matter of claim 10 therefore differs from the known device in that the device comprises a tank which is partially filled with liquid and that the liquid can be pressurised with nitrogen.

Claim 10 is therefore novel (PCT Article 33(2)).

#### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1.2 Document D2 is considered to be the prior art closest to the subject matter of claims 1 and 10. Said document discloses (the references in parentheses are to document D2):

a method for producing and filling containers (in particular bottles) with liquids (in particular drinks) that are enriched with oxygen, the liquid being degassed and then enriched with oxygen and optionally other gases in a dissolved and/or bonded form, the containers then being sealed in a pressure-tight manner, each container (30) that is to be filled being filled with oxygen or an oxygen-gas mixture before being filled with enriched liquid, whilst being prestressed under pressure (claim 1).

The subject matter of claims 1 (and 10) therefore differs from the known method and device in that, during the filling process, for at least some of the time, the liquid is kept in a nitrogen atmosphere not in an oxygen atmosphere.

The subject matter of claim 1 is consequently novel (PCT Article 33(2)).

1.3 The problem addressed by the present invention can thus be seen to reside in the fact that

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the use of an oxygen atmosphere is undesirable,

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the use of a nitrogen atmosphere for prestressing or a rinsing treatment in a process for filling a container with oxygen-enriched liquids is not proposed in the known prior art. Surprisingly the nitrogen atmosphere does not display any negative effect on the O2 content or the O2-enriched liquid.

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;

1.4 Claims 2-9 and 11-15 are dependent on claims 1 and 10, respectively and, in consequence, likewise satisfy the requirements of the PCT in respect of novelty and inventive step.